

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|--------------------------------|---|--------------------------|
| ARCONIC INC., |) | CIVIL ACTION NO. 17-1434 |
| |) | |
| Plaintiff, |) | JUDGE JOY FLOWERS CONTI |
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| |) | |
| |) | |
| |) | |
| v. |) | |
| |) | |
| |) | |
| |) | |
| NOVELIS INC. and NOVELIS CORP, |) | |
| |) | |
| Defendants. |) | |

ORDER GRANTING IN PART AND DENYING IN PART THE MOTION TO DISMISS

Defendants Novelis Inc and Novelis Corp., having filed a Motion to Dismiss [Dkt. No. 54] certain counts of Plaintiff's Complaint, and Arconic having filed its Opposition thereto [Dkt. No. 59]; and a Reply brief having been filed [Dkt. No. 81]; and the full briefing and oral argument having been considered, the Special Master Recommends that the Court enter the terms of the following Order in furtherance of Report & Recommendation #5:

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For the reasons set forth in the Special Master's Report & Recommendation #5,

IT IS THEREFORE ORDERED that:

- A. Novelis' Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**, as follows:
- Count I is **GRANTED** without prejudice; Arconic shall be granted leave to amend Count I in accordance with the provisions of Report & Recommendation #5 insofar as they pertain to Count I, in the following manner: Amended Count I shall state a breach of contract claim based upon a claim of misappropriation of trade secrets, incorporating by reference the pleading to be filed by Arconic in compliance with Report & Recommendation #4; and, if Arconic wishes to plead, in the alternative, a count alleging breach of contract based upon a claim of misuse of confidential proprietary information, it shall do so via a new count in the amended complaint that likewise incorporates by reference the confidential proprietary information identified in the pleading to be filed by Arconic in compliance with Report & Recommendation #4, and indicating that it is an alternate theory of the case;
- B. Novelis' Motion to Dismiss Count II is **DENIED** at this time to the extent that it is premised upon the failure to distinguish whether employees of Novelis Inc. or Novelis Corp. took the actions complained of; The Motion to Dismiss Count II is **GRANTED** on the ground of insufficient identification of the "confidential proprietary information" alleged to have been misused by Novelis Corp. ; with leave to amend Count II to incorporate by reference the identification chart to be filed by Arconic that shall identify the confidential proprietary information alleged to have been misused pursuant to the terms of the Report & Recommendation #3 and #4.
- C. Novelis' Motion to Dismiss Counts III and IV is **GRANTED** without prejudice; Arconic shall be granted leave to amend Counts III and IV to incorporate by reference the Trade Secrets/Confidential Proprietary Information identification chart filed in compliance with Report & Recommendation #3 and #4;

D. Novelis' Motion to Dismiss Counts V, VI and VIII are **GRANTED** with prejudice, except that Arconic may continue to seek injunctive relief in the "Relief Sought" section of its Complaint;

SO ORDERED.

BY THE COURT:

March 22, 2018
Date

s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J. (Ret.)
Special Master

Fully briefed: Dkt. Nos. 54, 59 (Arconic Opposition), 81 (Novelis Reply).